

ORIGINAL



American Mobile Telecommunications Association

**The
Business
Communications
Industry
Advocate**

EX PARTE OR LATE FILED

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EX PARTE OR LATE FILED

August 5, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie R. Salas, Secretary
Federal Communications Commission
445 Twelfth Street, SW, Room TW-A 325
Washington, DC 20554

**Re: Notice of oral ex parte communication
Petition for Rulemaking, Re-licensing of Certain Part 90 Frequencies
to Require Spectrally Efficient Use, RM - _____
Service Rules for the 746-764 and 776-794 MHz Bands
(WT Docket No. 99-168) /
Implementation of Sections 309(j) and 337 of the
Communications Act, as amended (WT Docket No. 99-87)**

To the Secretary:

On August 4, 1999, the American Mobile Telecommunications Association, Inc. ("AMTA," the Association") made an oral ex parte communication concerning the above-referenced proceedings to Kathleen O'Brien Ham, Deputy Chief of the Wireless Telecommunications Bureau, and D'wana Terry, Chief, Public Safety and Private Wireless Division of the Bureau. The purpose of the meeting was to discuss AMTA's recently filed Petition for Rulemaking seeking re-licensing of the 450-470 MHz band.

As detailed in the Petition, the Association believes that the current regulatory framework governing the 450-470 MHz frequency band provides insufficient incentive for users to move to spectrally efficient technology, in spite of the efforts of the FCC to encourage efficiency. The band has become over-used by conventional, "legacy" equipment, making the creation of more efficient systems impossible, especially in urban areas. The resulting stagnation is driving some manufacturers from the land mobile equipment industry, a development that promises critical problems in the future.

AMTA therefore recommends that the Industrial/Business frequencies in the 450-470 MHz band be divided, with a portion for continued shared use and the remainder converted to geographic licenses. One-quarter of the available

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licenses would be made available only to private, internal systems; the rest would be available to either private and commercial licensees. Incumbent systems would be offered the choice of moving to the shared spectrum at the cost of the geographic licensee, vying for a geographic license that could be partitioned or disaggregated, or obtaining commercial service, using more efficient equipment provided by the geographic licensee.

AMTA believes that its Petition integrates well with the "Band Manager" concept outlined in the *Notice of Proposed Rulemaking* in Docket 99-87, and mentioned in the 746-806 MHz *Notice of Proposed Rulemaking*. AMTA also suggested during the meeting that an allocation in the 746-806 MHz band for commercial wireless, with service limited to private eligibles, may meet the FCC's goal of providing more spectrum for private wireless use, while meeting the statutory requirement that this spectrum be allocated to "commercial wireless."

AMTA also indicated its concern regarding the grant of conditional waivers of the Part 90 Rules to Nextel Communications, so that Nextel may use some 800 MHz Business and Industrial/Land Transportation channels to re-tune upper-band incumbents. This issue has been integrated into WT Docket 99-87. The Association noted that commercial incumbents re-tuned to these frequencies would be unable to transfer their authorizations to other commercial licensees in the future, should eligibility restrictions remain in place. AMTA therefore requested that the Bureau determine that such frequencies do not constitute "comparable facilities" for purposes of mandatory re-tuning.

Pursuant to Section 1.1206(b) of the Commission's Rules and Regulations, 47 C.F.R. § 1206(b), two copies of this Notice are provided for each docket included in the discussion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jill M. Lyon', followed by a horizontal line extending to the right.

Jill M. Lyon
Senior Vice President for Regulatory Relations
& Deputy General Counsel

cc: Kathleen O'Brien Ham, Deputy Chief
D'wana Terry, Division Chief